That such is the true test of ballot voting has been asserted by many courts in disposing of questions relating to suffrage. Thus, the court says in *Brisbin* v. *Cleary*, 26 Minn. 107, "This privilege of secrecy may properly be regarded as the distinguishing feature of ballot voting, as compared with open voting, as, for instance, voting viva voce. The object of the privilege is the independence of the voter." See also, *People* v. *Cicotte*, 16 Mich. 283; *Williams* v. *Stein*, 38 Ind. 90; *State* v. *Shaw*, supra; *Ex parte Arnold*, 128 Mo. 256.

The question as directly involving voting machines has only twice been discussed by courts of last resort (*In re Voting Machine*, 19 R. I. 729, 36 Atl. Rep. 716, 36 L. R. A. 547; *Opinion of the Justices*, 178 Mass. 605, 60 N. E. Rep. 129, 54 L. R. A. 430); and in both cases the constitutionality of their use was upheld by divided courts, but on account of differences in the constitutions of those states from that of Michigan the decisions are not precisely in point here. In Massachusetts the requirement is that officers "shall be chosen by written votes," while in Rhode Island a provision that voting for general officers shall be by ballot is qualified by the phrase "until otherwise provided by law."

The fact that obviously the framers of the constitution had in view in the use of the word "ballot" a paper ticket, and that all contemporary legislation was enacted with a similar idea, gives rise to much discussion in the briefs in the principal case—copies of which have been furnished the writer by the respective counsel—as to whether a proper construction will not limit the constitutional provision to the exact meaning that the framers thereof had in mind. This principle is often helpful, indeed it is sometimes controlling. But it is not to be indiscriminately applied. In the present case the correct principle applicable would seem to be that stated in the language of CHIEF JUSTICE PARKER in *Henshaw* v. *Foster*, 26 Mass. (9 Pick.) 312, 317: "We are to suppose that those who were delegated to the great business of distributing the powers which emanated from the sovereignty of the people, and to establishment of rules for the perpetual security of the rights of persons and property, had the wisdom to adapt their language to future as well as existing emergencies; so that words competent to the then existing state of the community and at the same time capable of being expanded to embrace more extensive relations, should not be restrained to their more obvious and immediate sense, if, consistently with the general object of the authors and the true principles of the compact, they can be extended to other relations and circumstances which an improved state of society may produce."

SIGNING "AT THE END" OF A WILL.—There is a manifest tendency in some courts to take almost every case which comes before them out of the operation of the general rule of law applicable thereto, and by a process of minute differentiation, to decide it according to the particular judge's notion of what is just and fair in the particular case. While something of this sort is necessary under the rapidly changing conditions of modern society and possible under the elastic scheme of the common law, yet it is a course fraught with danger, and one which is responsible for much of the confusion and

"conflict of authority" in our reports. It is reassuring to note the decisions of courts which realize this danger of frittering away the safeguards afforded by settled rules and long established statutes, and which therefore steadfastly adhere to those settled rules, in the face of strong temptation to depart from them in order to avoid harsh results in exceptional cases. A recent example of such a decision is found in the case of *Irwin* v. *Jacques* (1905), — Ohio —, 73 N. E. Rep. 683. This was an action contesting a will on the ground that it was not executed in accordance with § 5916 Ohio Rev. St., which provides that "Every last will * * * shall be in writing * * * and shall be signed at the end thereof by the party making the same." The original will consisted of a writing on the horizontal lines of six pages of legal cap paper. This was read over to the testator, who approved of all that was written, but refused to sign it until a clause designed to prevent a contest of the will, by heirs or legatees, should be added. Thereupon a clause was written in vertically on the left hand margin of the last page opposite the attestation clause, and was as follows: "My will is that any child or heir not taken with this my last will and testament shall be disinherited, cut out, and shall not have one doll of my estate." With this the testator expressed his satisfaction and then signed the will underneath the attestation clause and opposite, but not below, the lower part of the marginal addition. From a judgment of the lower court, finding that the paper produced was not a valid will, the case was taken on error to the Supreme Court. In affirming the judgment of the trial court, that court held that as clauses, like the marginal clause in this will, imposing a forfeiture of benefits under such will, upon those who shall contest it, are valid (see 3 MICH. LAW REV., 166, for recent American cases on this point), it follows that the clause in question is dispositive in character and hence material and cannot be rejected as surplusage, and that its location in the will is of essential importance in determining whether the will is signed at its end as required by the statute. There being no reference by word or character in the body of the will, by the aid of which the marginal clause could be read in connection with or as a part of any portion thereof, the court held that the will was not signed "at the end" in conformity with the plain requirement of the statute, and hence that it was not entitled to probate. This is in accordance with the clear weight of authority, in states having similar statutes. *Glancy* v. *Glancy*, 17 Ohio St. 135; *In re O'Neil's Will*, 91 N. Y. 516; *Appeal of Wineland*, 118 Pa. St. 37, 12 Atl. Rep. 301; *In re Walker*, 110 Cal. 387, 42 Pac. Rep. 815. The construction thus put upon the statute is the only one which can make it effective for the purpose for which it was designed, namely, to prevent fraudulent or unauthorized additions to the will. The rule has been held in a few cases not to apply when the added clause is not dispositive, as for the appointment of executors. *Brady* v. *McCrossen*, 5 Redf. (N. Y.) 431; but this is denied in *Wineland's Appeal*, supra, and in *Sisters of Charity* v. *Kelly*, 67 N. Y. 409. In view of the purpose of the statute to prevent fraud as indicated above, it is doubtful if the decisions sustaining wills where added matter is referred to by asterisk or by such expressions as "See next page," in the body of the will, can be justified in reason. See *Baker's Appeal*, 107 Pa. St. 381, 52 Am. Rep. 478; *Goods of Birt*, L. R. 2 P. & D. 214.